HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT APPEAL NO. 838 OF 2006

BETWEEN

The District Collector,
Khammam District & another

.....

Appellants

And

Burle Kamalamma

.....Respondent

Counsel for the Appellants : Shri S. Satya Prasad,
Special Government
Pleader

Counsel for the Respondent : Shri M. Sudheer
Kumar Endowments

Dated: 09.08.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 19.10.2005 passed by the learned Single Judge in Writ Petition No.4314 of 2005 whereby, instead of quashing the proceedings of acquisition initiated by the respondents (appellants herein) under the Land Acquisition Act, 1894 (for short 'the 1894 Act') on the ground of non-compliance of the mandate of Section 11-A of the 1894 Act, directed them to initiate fresh proceedings for acquisition of the respondent's land.

We have heard Shri Satya Prasad, learned Special Government Pleader and Shri M. Sudheer Kumar, Advocate for the respondent and are convinced that the appeal is wholly merit less and is liable to be dismissed with costs.

A perusal of the record shows that the respondent's husband Shri Burle Ramulu owned land in survey No.280/2f of Khanapuram Haveli Village, Khammam Urban Mandal, Khammam District. In October, 1986, the respondents took possession of a part of the land measuring Ac.0.16 ½ guntas without resorting to the procedure prescribed under the 1894 Act and without paying compensation to him. After eleven years of forcibly depriving late Shri Burle Ramulu of his property, it dawned on the authorities concerned to initiate proceedings under the 1894 Act. Accordingly, notification dated 05.12.1997 was issued under Section 4(1) of the 1894 Act. This was followed by declaration dated 01.01.1999 issued under Section 6 of the 1894 Act. If the concerned authority had taken the proceedings initiated

vide notification dated 05.12.1997 to its logical end and passed award in terms of Section 11-A of the 1894 Act, perhaps the widow of late Burle Ramulu would have been spared of the harassment and expenses which she had to incur for seeking intervention of the Court by filing writ petition under Article 226 of the Constitution and in defending this appeal. However, the fact of the matter is that the officers concerned did not bother to pass award within two years as per the mandate of Section 11-A of the 1894 Act. This compelled the respondent to file writ petition under Article 226 of the Constitution of India for directing the non-petitioners (appellants herein) to acquire the land by initiating fresh proceedings under the 1894 Act and pay her the compensation.

The learned Single Judge took cognizance of the fact that mandate of Section 11-A has not been adhered to and as a result of that, the acquisition proceedings have been rendered nullity, but he did not quash the acquisition by observing that the road had already been laid. Instead, the learned Single Judge directed the non-petitioners (appellants herein) to initiate proceedings for acquisition of the land and pass appropriate order at the earliest preferably within six months.

Shri Satya Prasad, learned Special Government Pleader relied on the judgment of the Supreme Court in **Satendra Prasad Jain v. State of U.P.**[1] and argued that the direction given by the learned Single Judge for re-initiation of acquisition proceedings should be annulled because possession of the land had been taken

way back in the year 1986.

We have considered the submission of the learned Special Government Pleader, but have not at all felt impressed. In our opinion, once the appellants thought it proper to initiate acquisition proceedings though after eleven years of taking possession of the land, it is not open to them to turn around and contend that the initiation of acquisition proceedings was not warranted because possession of the land had been taken in the year 1986 and the land of the husband of the respondent had been utilized for laying road.

We are further of the view that the action of the appellants to take possession of the land belonging to the respondent's husband without following due process of law i.e. by complying with the provisions of the 1894 Act can appropriately be termed as an extreme example of highhandedness by public authorities. It is not possible to countenance a situation in which a Government, which is wedded to the system established by a rule of law, can take law into its own hands and deprive the citizens of their constitutional and legal rights and then drag them to litigation without any tangible reason or justification.

In the course of hearing, we asked learned Special Government Pleader as to how public authorities could deprive a citizen of his property right which is protected by Article 300-A of the Constitution of India without any authority of law. The

response of the learned Special Government Pleaser was that he cannot justify deprivation of a citizen of his property right without the authority of law.

In the premise aforesaid, we hold that the direction given by the learned Single Judge is most equitable and just and does not call for interference.

In the result, the appeal is dismissed. The appellants shall pay costs of Rs.10,000/- to the respondent for having forced litigation on her after depriving her and her husband of their property without authority of law almost 20 years ago. The amount of costs shall be paid to the respondent within a period of one month from today.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

Before this order could be typed and signed, learned Special Government Pleader made a request that appellants may be permitted to withdraw the appeal.

Though unusual, we accept the request of the learned Special Government pleader and dismiss the appeal as withdrawn subject to the rider that the acquisition proceedings in terms of the direction given by the learned Single Judge must be completed, award passed and compensation paid to the respondent within a period of six months from today. If the concerned authorities fail to comply with this direction, the respondent shall be free to initiate proceedings under the Contempt of Courts Act, 1971.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

09.08.2006
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[1] (1993) 4 Supreme Court Cases 369